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In re Application of	:	DECISION ON
KUMAR et al	:	
Application No.: 10/586,261	:	
PCT No.: PCT/AU2005/000055	:	
Int. Filing Date: 19 January 2005	:	PETITION UNDER
Priority Date: 19 January 2004	:	
Attorney Docket No.: 0641-0283PUS1	:	
For: BIOACTIVE COATING OF	:	
BIOMEDICAL IMPLANTS	:	37 CFR 1.181

This decision is in response to the "REQUEST FOR CORRECTED NOTIFICATION OF ACCEPTANCE" filed 10 January 2008, which is being treated as a petition under 37 CFR 1.181 requesting that the correct date of completion of the USC 371(c)(1), (c)(2), and (c)(4) date be changed from 02/28/2007 to 02/08/2007.

### **BACKGROUND**

On 19 January 2005, this international application was filed, claiming an earliest priority date of 19 January 2004. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 19 July 2006.

On 18 July 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1); however, no executed declaration or oath under 35 U.S.C. 371(c)(4) was provided.

On 08 February 2007, applicants filed an executed declaration.

On 24 December 2007, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 28 February 2007, and a date of completion of all 35 USC 371 requirements of 28 February 2007.

On 10 January 2008, applicants filed the current petition pursuant 37 CFR 1.181 requesting a corrected filing receipt, stating that the date of completion of all 35 USC 371 requirements is 08 February 2007.

### **DISCUSSION**

A review of the executed declaration filed on 08 February 2007 reveals that it was defective, in that the name of the second named inventor has been improperly altered – lines across the name of the second inventor- and the name hand-written below the alteration to reflect the correct name of the inventor. Any alternation made after the signing of an oath or declaration must be supported by a supplemental oath or declaration under §1.67. Note 37 CFR §1.52. As a result, the declaration may not be accepted at this time.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 24 December 2007 was in error because applicants filed a defective executed declaration.

A proper response to this decision is a new oath or declaration in compliance with 37 CFR 1.497. There is no petition fee for this correction.

### **DECISION**

The petition under 37 CFR 1.181 is **DISMISSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 24 December 2007 is **VACATED** with the mailing of this decision.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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